

REMARKS

Claims 1, 3-19, 21-26, and 28-49 are pending in the present application.

At the outset, Applicants wish to thank Examiner Weddington for the recognition that Claims 5, 9, 11, and 29 are free of the art and allowable. Applicants also would like to thank Examiner Weddington for the indication that the previous rejection under 35 U.S.C. §112, first paragraph (enablement) is withdrawn. Reconsideration of the outstanding rejections is requested in view of the following remarks.

The rejection of Claims 1-4, 6-8, 10, and 12-15 under 35 U.S.C. §103(a) over Pettit or Cushman et al in view of Fex et al is obviated by amendment.

As the Examiner recognizes, the cited prior art are silent with respect to the specifically identified tubulin polymerization-inhibitory active substances having anti-tumor activity of Claim 11 and the anti-inflammatory active substances of Claim 5 (or 9). In view of this recognition, the Examiner notes that Claims 5, 9, and 11 are merely objected to as being dependent upon a rejected based claim, but would be allowable if rewritten in independent form including all of the limitations of the based claim and any intervening claims.

To this end, Claim 1 has been amended to incorporate the limitations of original Claim 11. Specifically, Claim 1 has been amended to define the tubulin polymerization-inhibitory active substance having anti-tumor activity as (Z)-N-[2-methoxy-5-[2-(3,4,5-trimethoxyphenyl)vinyl]phenyl]-L-serinamide or a salt thereof. This same amendment has been made to method Claims 16 and 22. Accordingly, Applicants submit that Claims 1 and 3-15 should now be found allowable. In addition, Applicants submit that the method claims sharing the point of novelty of Claim 1 should be rejoined and found allowable.

Further, Applicants have now presented Claims 30-49 where Claims 30-38 are drawn to composition claims based on original Claims 1-15 and Claims 39-49 are drawn to method claims based on original claims 16-28. Specifically, Claim 30 corresponds to a combination of original Claims 1, 4, and 5 and, thus, Claim 30 is a rewritten form of allowable Claim 5 in independent form including all of the limitations of the based claim and any intervening claims. As such, Applicants submit that Claims 30-38 should now be found allowable. In addition, Applicants submit that the method claims sharing the point of novelty of Claim 30 should be rejoined and found allowable.

In view of the foregoing, Applicants submit that the present invention is not obvious in view of the disclosures of Pettit or Cushman et al in view of Fex et al. Applicants request withdrawal of this ground of rejection.

Finally, with respect to the non-elected method claims, Applicants remind the Examiner that MPEP §821.04 states:

...if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Accordingly, upon a finding of allowability of the elected product claims, Applicants respectfully request rejoinder of the withdrawn process claims that depend therefrom.

Specifically, Applicants wish to note that new Claims 30-38 correspond to previously elected subject matter. Claim 30 corresponds to a combination of original Claims 1, 4, and 5. Therefore, Claims 30-38 should be entered and examined in the present application. New Claims 39-49 correspond to original Claims 16-28 in which the anti-inflammatory active substance has been limited in the same manner as in Claim 30. Claims 39-49 are method claims, which were withdrawn by non-election. Nonetheless, with the finding of allowability

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of the composition claims (i.e., 1, 3-15, and 30-38), Claims 16-28 and 39-49 should be rejoined and examined (MPEP §821.04).

Applicants submit that the present application is now in condition for allowance.
Early notice to this effect is earnestly solicited.

Respectfully submitted,

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